



U.S. Department of Justice

*United States Attorney  
Southern District of New York*

*United States District Courthouse  
300 Quarropas Street  
White Plains, New York 10601*

October 12, 2021

**BY ECF**

The Honorable Philip M. Halpern  
United States District Judge  
Southern District of New York  
300 Quarropas Street  
White Plains, New York 10601

**Re: *United States v. Christopher Erskine*  
S3 20 Cr. 626 (PMH)**

Dear Judge Halpern:

The Government writes in response to defendant Christopher Erskine's letter. (ECF No. 328).

In this criminal case, defendant Erskine invokes the Federal Rules of Civil Procedure, requesting a pre-discovery motion conference under Federal Rule of Civil Procedure 37(a)(1). As the Court is aware, a more customary avenue to raise discovery-related issues in criminal matters is through a pretrial motion under Fed. R. Crim. P. 12(b)(3)(E). And under the Federal Rules of Criminal Procedure, it is the Court that "set[s] the deadline for the parties to make pretrial motions" and the Court may "extend or reset th[at] deadline." Fed. R. Crim. P. 12(c)(1)-(2).

Currently there is no pretrial motions deadline, nor have the parties requested one. Thus, the Government respectfully suggests that, for now, defendant's request to file a motion is untimely. As a matter of judicial economy and to avoid piecemeal motion practice in this large, multi-defendant case, the Government requests that the Court wait to address any potential discovery motion the defendant wishes to make under Fed. R. Crim. P. 12(b)(3)(e) until a schedule has been set for all defendants in this matter. This conforms to the procedure set out in the Federal Rules of Criminal Procedure and will allow the Court to handle pretrial motions across the remaining defendants in this matter efficiently.

To date, the Government has produced close to 500,000 pages of discovery from myriad law enforcement agencies, hundreds of hours of wire recordings, thousands of jail calls, and extractions from several voluminous electronic devices,


including encrypted cellphones seized at the time of the takedown in this matter. The Government has worked with counsel to make discovery accessible, including by working with various pretrial detention facilities to make laptops accessible to defendants (if they choose to use one) and working closely with the discovery coordinator in this matter. And the Government continues to produce discovery as materials come into its possession. The Government will appropriately respond to any motion made under Fed. R. Crim. P. 12(b)(3)(e), if any, at the time a motion schedule is set.

More concretely, the Government intends to seek a motion schedule at the next conference scheduled for November 17. Given this defendant's desire to file a motion, the Government respectfully submits that the next conference date a month away is an appropriate time to set a motion schedule for all remaining defendants in this matter.

Please do not hesitate to reach out with any questions.

Respectfully submitted,

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CC: All Counsel (by ECF)